

Number: **201328022**
Release Date: 7/12/2013
Index Number: 104.03-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No. _____

Telephone Number:

Refer Reply To:
CC:ITA:4
PLR-144684-12
Date:
April 11, 2013

In re:

LEGEND:

Year 1 =
 $x =$
 $Z =$

Dear _____ :

This replies to your request for a ruling that \$x you received pursuant to Z in Year 1 is excluded from your gross income under § 104(a)(2) of the Internal Revenue Code.

FACTS

Before Year 1, you suffered personal physical injuries within the meaning of § 104(a)(2). In year 1, you received \$x pursuant to Z to compensate you for lost wages, medical expenses, and other pecuniary losses you incurred or expect to incur from psychological harms that originated in the personal physical injuries.

LAW AND ANALYSIS

Section 61 provides that gross income includes all income from whatever source derived, except as otherwise excluded in subtitle A.

Section 104(a)(2) provides that gross income does not include the amount of any damages received (whether by suit or agreement) on account of personal physical injuries or physical sickness, except for amounts attributable to (and not in excess of) deductions allowed under § 213 (relating to medical, etc., expenses) for any prior taxable year.

Section 1.104-1(c)(1) of the Income Tax Regulations provides that damages for emotional distress attributable to a physical injury or physical sickness are excluded

from gross income under § 104(a)(2). For purposes of § 1.104-1(c), the term *damages* means an amount received (other than workers' compensation) through prosecution of a legal suit or action, or through a settlement agreement entered into in lieu of prosecution.

Under § 1.104-1(c)(1), the \$x that you received pursuant to Z in Year 1 is to compensate you for psychological harms that are attributable to the personal physical injuries you suffered before Year 1. Thus, the \$x that you received in Year 1 pursuant to Z was received on account of personal physical injuries within the meaning of § 104(a)(2).

CONCLUSION

Based strictly on the information submitted and the representations made, we conclude that the \$x you received in Year 1 pursuant to Z is excluded from your gross income under § 104(a)(2), except for amounts that reimbursed you for medical expenses that you incurred and deducted before Year 1.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

The rulings contained in this letter are based upon information and representations that you submitted under penalties of perjury. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

You must attach a copy of this letter to any income tax return to which it is relevant. If you file your returns electronically, you must attach a statement that provides the date and control number of this letter ruling.

In accordance with the Power of Attorney on file with this office, we are sending a copy of this letter to your authorized representative.

Sincerely,

Michael J. Montemurro
Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: